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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,610

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Michel Jan DeRuijter

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EXAMINER

DOUYON, LORNA M

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

12/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,610	Applicant(s) DERUIJTER, MICHEL JAN	
	Examiner Lorna M. Douyon	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/29/08</u> . | 6) <input type="checkbox"/> Other: _____ |

1. This action is responsive to the amendment filed on August 29, 2008.
2. Claims 1-8 are pending.
3. **Claim 1 stands objected** to because of the following informalities: “neutralizing” (see line 3) and “characterized” (see line 4) are misspelled. Appropriate correction is required.
4. **Claim 6** is objected to because of the following informalities: this claim lacks a period at the end of line 3. Appropriate correction is required.
5. The objection to claims 4-8 under 37 CFR 1.75(c) as being in improper form is withdrawn in view of Applicants’ amendment.
6. The rejection of claims 1-3 under 35 U.S.C. 103(a) as being unpatentable over Ramanan et al. (US Patent No. 6,288,016) in view of Mort III is withdrawn in view of Applicants’ amendment and arguments therein.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mort, III et al. (US Patent No. US 6,258,773), hereinafter "Mort III".

Mort III teaches a process for preparing low density detergent agglomerates which comprises the steps of: (a) agglomerating a first liquid acid precursor of an anionic surfactant and dry starting detergent material having a median particle size in a range from about 5 microns to about 50 microns in a first high speed mixer to obtain detergent agglomerates having a median particle size of from about 100 microns to about 250 microns; (b) mixing the detergent agglomerates with a second liquid acid precursor of an anionic surfactant in a second high speed mixer to obtain built-up agglomerates having median particle size in a range of from about 140 microns to about 350 microns; and (c) feeding the built-up agglomerates into a fluid bed dryer in which the built-up agglomerates are agglomerated with a third liquid acid precursor of an anionic surfactant and dried to form detergent agglomerates having a median particle size in a range of from about 300 microns to about 700 microns (see col. 3, lines 46-65). Mort III also teaches that it is also preferable to include from 1% to about 40% by weight of recycled undersized detergent particles or "fines" in the first step of the process, and this can be conveniently accomplished by screening the detergent particles formed subsequent to the fluid bed dryer to a median particle size range of from about 10 microns to about 150 microns and feeding these "fines" back into the first high speed mixer (see col. 5, lines 6-12). Other optional steps include conditioning of the detergent agglomerates by subjecting the agglomerates to additional drying and/or cooling by way of apparatus discussed previously (see col. 7, lines 18-21). Some examples of the

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preferred anionic surfactants useful in the surfactant paste, or from which the liquid acid precursor described herein derives, include primary, branched-chain and random C₁₀-C₂₀ alkyl sulphates and C₁₀-C₁₈ alkyl alkoxy sulphates, especially EO 1-7 ethoxy sulfates (AES) (see col. 5, lines 41-60; col. 7, line 66 to col. 8, line 10). The temperature in the high speed mixer, although not explicitly disclosed, is understood to be operated under ambient conditions, which temperature may rise above ambient due to the neutralization reaction, but it is expected that the temperature is not higher than 100°C. The resulting product comprises 15.9 wt% NaLAS and 4.7 wt% AES (see Table 1 under col. 12), hence, the recycle stream is also expected to have a surfactant content as indicated above. Mort III, however, fails to specifically disclose the recycle fines in amounts as those recited, and the temperature of the recycle fines.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to select the portion of the prior art's range which is within the range of applicant's claims because it has been held to be obvious to select a value in a known range by optimization for the best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the prima facie case of obviousness. See *In re Boesch*, 627 F.2d 272,276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575, 1578,16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454,456,105 USPQ 233,235 (CCPA 1955). In addition, a *prima facie* case of obviousness exists because the claimed ranges "overlap or lie inside ranges disclosed

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by the prior art", see *In re Wertheim*, 541 F.2d 257,191 USPQ 90 (CCPA 1976; *In re Woodruff*; 919 F.2d 1575,16USPQ2d 1934 (Fed. Cir. 1990). See MFEP 2131.03 and MPEP 2144.05I.

Also, with respect to the temperature of the recycle fines, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the temperature of the recycle fines to be within those recited, considering that a cooling step of the detergent agglomerates is taught in col. 7, lines 18-21, hence, when cooled, the temperature of the recycle fines would be less than the temperature in the high speed mixer where a neutralization process is occurring. In addition, temperature is a result-effective variable and its optimization would have been obvious for the same reason as above.

Response to Arguments

9. Applicants' arguments filed August 29, 2008 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Mort III, Applicants argue that Mort III does not appear to suggest to cool the recycle. The example has air at 125°C input to the fluid bed so it seems to be heated, and this recycle teaching is not linked to a process for feeding surfactant acid precursor except via the example (where fines are about 14%) and via the general preference at col. 5, line 41. Applicants, then argue that one of ordinary skill in the art would have had to select recycle, select the amount to be greater than 30% (twice that exemplified) and select the surfactant acid

embodiment before even beginning to think about reversing the heating shown in Mort III to arrive at a cooled recycle.

The Examiner respectfully disagrees with the above arguments because a reference is not limited to the working examples, *see In re Fracalossi*, 215 USPQ 569 (CCPA 1982). All disclosures of the prior art, including non-preferred embodiment, must be considered. *See In re Lamberti and Konort*, 192 USPQ 278 (CCPA 1967); *In re Snow* 176 USPQ, 328, 329 (CCPA 1973). In col. 7, lines 18-21, Mort III teaches an optional step which include conditioning of the detergent agglomerates (which is understood to include the recycle fines) by subjecting the agglomerates to additional drying and/or cooling. It is clear from col. 5, lines 6-8 that it is preferable to include from about 1 to about 40% by weight of recycled undersized detergent particles or “fines” in the first step of the process. Hence, one of ordinary skill in the art would have been motivated to optimize the proportions of the recycled fines which are fed into the mixer.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

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